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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,848	02/11/2004	H. Stetser Murphy JR.	22270-RA2	3039
30184	7590	10/26/2006	EXAMINER	
MYERS & KAPLAN, INTELLECTUAL PROPERTY LAW, L.L.C. 1899 POWERS FERRY ROAD SUITE 310 ATLANTA, GA 30339			HURLEY, SHAUN R	
			ART UNIT	PAPER NUMBER
			3765	

DATE MAILED: 10/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/776,848	MURPHY, H. STETSER
	Examiner	Art Unit
	Shaun R. Hurley	3765

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 13 September 2006.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-21 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-21 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO/SB/08)
 Paper No(s)/Mail Date _____

4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____

5) Notice of Informal Patent Application
 6) Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4, 6, 9, 10, and 13-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Chen (5577644).

Chen teaches a garment hanger comprising at least one arcuate hook member (60) having first and second ends, and at least one generally spherical ball shaped member (20) having surface protrusions (ears, nose, etc) and of at least 2 inches in diameter (scale of figures, use) and fixably attached proximate to the second end, wherein the hanger is made of a moldable material (all materials including plastics, metals, etc are moldable). In regards to nonslip material, all hanger materials are nonslip as compared to known slippery materials. Chen also inherently teaches the method of using such a hanger.

In regards to the generally spherically shaped ball member receiving the garment to be hung, this is intended use, and so long as the structure is capable of performing the intended use, the claim is anticipated.

3. Claims 18-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Bury et al (2946493).

Bury teaches a garment hanging device (Figure 2) comprising a support frame, at least one extension arm (14) having first and second ends, first end being secured to the support

frame, wherein the extension arm had upper and lower extension with a ball (22, 24) attached on each, as well as a ball between first and second ends. In regards to the generally spherically shaped ball member receiving the garment to be hung, this is intended use, and so long as the structure is capable of performing the intended use, the claim is anticipated.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 5, 7, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen.

Chen essentially teaches the invention as discussed above, but fails to specifically teach being integrally molded of expanded polystyrene, which is well known in the art. It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to mold the hanger in one piece out of expanded polystyrene, so as to cheaply produce a safe hanger.

Molding as one piece removes expensive assembly, and expanded polystyrene is a safer material for hanging garments on, all understood by the ordinarily skilled artisan and known in the art.

6. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chen in view of Chen (6170721).

Chen essentially teaches the invention as discussed above, but fails to specifically teach the hook having substantially flat surfaces, which Chen '721 teaches (Figure 1). It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to utilize flat

hook surfaces, so as to stabilize the hook on a rod. The ordinarily skilled artisan would understand this benefit, and know to use such.

7. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chen in view of Bury.

Chen essentially teaches the invention as discussed above, but fails to specifically teach a hemispherical indent, which Bury teaches (Figure 6). It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to utilize such an indentation, so as to stabilize the hook on a rod. The ordinarily skilled artisan would understand this benefit, and know to use such.

8. Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen in view of Lehmann (4872568).

Chen essentially teaches the invention as discussed above, but fails to specifically teach a plurality of hanging arms along a connecting rod. Lehmann teaches that using such a spreadwidth construction is well known in the art (Figure 1). It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to utilize the structure as taught by Lehmann in the invention of Chen, so as to allow for greater stability on the hanging rod. By providing multiple hanging arms and a width, the ordinarily skilled artisan would increase the balance in the hanger, providing appreciable stability.

Response to Arguments

9. Applicant's arguments filed 13 September 2006 have been fully considered but they are not persuasive.

Applicant argues on page 7 of his response that Chen teaches only an aesthetic covering for a connector, and that "*there is no provision or description of any possibility of utilizing the hollow toy doll as a supportive hanger for a garment*". Examiner's position is that this is nothing more than intended use, and so long as the structure of the prior art is capable of performing the intended use, the claims are anticipated. If applicant included the limitation "wherein the hanger is used as a paperweight, or to fight crime", would Examiner then be expected to allow the case, simply because the prior art garment hanger did not address weighting papers or crime fighting? If the hanger is capable of performing the intended use, then the claims are anticipated. Examiner notes, however, that even if such a limitation were given weight, a turtleneck would most certainly anticipate the claims as written, as it would hang on the prior art of Chen as intended, but also would drape upon the generally spherically ball shaped member.

Examiner also would like to point out in Applicant's arguments on page 8, first paragraph that "likely" does not equate to absolutely, and to assume this is the case every time is erroneous. Likewise the arguments in the second paragraph of the same page that "*This non-deforming draping is not possible with Chen ('644)*" are also erroneous since such a deformation would depend on the duration of exposure between the garment and the hanger itself. Deformation is NOT instantaneous.

Applicant then argues on page 9 that "*Bury ('493) device is structurally distinct from that claimed by Applicant and is incapable of functioning in the same manner.*" Examiner respectfully disagrees. The device of Bury most certainly is capable of functioning in the same manner. Every required aspect as claimed is provided for and taught by Bury. Likewise,

Applicant's arguments that the extension arm is not secured to the support frame (31, 34, and the stem of the hook) are erroneous. If they were not secured, then they would simply fall off.

While Applicant may somehow intend some different sort of securing, the likes of which Examiner cannot determine, they are most certainly "secured" to one another.

In reference to the 103(a) rejections as previously made and currently maintained, Applicant has elected not to address them specifically, but rather allow them to fall under the allowability of their respective independent claims, and as such, Examiner will not address the rejections.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shaun R. Hurley whose telephone number is (571) 272-4986. The examiner can normally be reached on Mon - Fri, 6:30 am - 3:00 pm, off second Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Welch can be reached on (571) 272-4996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Shaun R Hurley
Examiner
Art Unit 3765

SRH
20 October 2006